Privacy Practices for Frontline Health Care Workers

RNN Workshop

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Erin McLean, RN, BNSc
Staff Development Coordinator

Leeds, Grenville & Lanark District HEALTH UNIT

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[Confidentiality you tube]

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But first, some Definitions

Privacy:

- The right of an individual to control the collection, use, disclosure and retention of their personal Information.

Security:

- The tools and techniques we use to protect the confidentiality, integrity and availability of personal information.

Confidentiality:

- The obligation of a health care provider (or other person) to honour and protect the secrecy of personal information

Health Information Custodian

- Under this legislation, persons and organizations that provide health care are collectively known as Health Information Custodians (HIC).

- As a HIC you need to prevent the following:
  - Unauthorized collection
  - Unauthorized use
  - Unauthorized disclosure
  - Denial of client rights

Background

- The *Personal Health Information Protection Act, 2004* (PHIPA) is an Ontario law that governs the collection, use and disclosure of personal health information within the health sector.
- Other privacy legislation to consider
  - FIPPA – Freedom of Information and Protection of Privacy Act 1990
  - PIPEDA - Personal Information Protection and Electronic Documents Act
  - MFIPPA - Municipal Freedom of Information and Protection of Privacy Act 1990

- The goal is to keep personal and personal health information confidential and secure, while allowing for the effective delivery of health care.
- Most privacy legislation is based on 10 privacy principles

PURPOSE FOR THIS SESSION

All participants will

1. Understand the basics of the 10 privacy principles
2. Identify areas to improve on at their own workplace
3. Participate in small group discussions and share practices and resources
4. Create an action plan

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10 Privacy Principles

1. Accountability
2. Identifying Purposes
3. Consent
4. Limiting Collection
5. Limiting Use, Disclosure & Retention
6. Accuracy
7. Safeguards
8. Openness
9. Individual Access
10. Challenging Compliance

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#1 Accountability

Requirement:

- Designate a contact person to assist you in meeting your privacy obligations, and to deal with any
  - access requests,
  - privacy related inquiries and complaints,
  - and Commissioner investigations

How

- Communicate expectations in policy and procedures
- Determine appropriate position to be contact person
- Access training and resources

  Example: IPC - Office of the Information and Privacy Commissioner/Ontario

#2 Identifying Purposes

Requirement:

- Inform your patients/clients of the purpose(s) for which their personal health information is collected, used and disclosed, unless otherwise exempted by the Act

HOW?

- Post a statement of practices
- Use Standard Privacy Statements
- Provide Handouts
- Check for understanding

#3 Consent

Requirement:

- May assume Implied Consent where appropriate, or obtain Express Consent from your patients when collecting, using or disclosing their personal health information, unless otherwise exempted by the Act

HOW?

Consent will be valid if it is:

- Given by the individual
- Knowledgeable
- Relates to the personal health information being collected, used or disclosed;
- Not obtained through deception or coercion.

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#4 Limiting Collection

Requirement:

- Limit your collection of personal health information to that which is necessary for the identified purposes or for purposes that the Act permits or requires.

HOW?

- Look at purpose for collecting information
  - Consider legal implications, professional college requirements
- Look at tools/resources/practices used to gather information
  - Review against purpose, any revisions needed?
  - Example – Health Card Number – if not needed for service, no reason to collect and store

#5 Limiting Use, Disclosure and Retention

Requirement:

- An organization should not use PHI for new purposes, unless it has the consent of the client, or as required by law.
- Personal data should only be retained as long as is necessary to fulfill the organization's stated purposes.
- An organization should develop specific guidelines and procedures governing the destruction of personal information.

How?

- Develop/use a Consent to Release Information form
  - What to include? When to use?
- Record Retention Schedule
  - Implement a plan for secure record destruction

#6 Accuracy

Requirement:

- In order to meet the intended purposes, personal information should be accurate, complete and up-to-date.
- This principle aims to minimize the possibility that incorrect information is used to make a decision about a client.
- This also applies to information disclosed to third parties.

How?

Develop/communicate:

- Documentation Guidelines
- Standard Forms
- Standard Abbreviation Lists
- Standardized date format

#7 Safeguards

Requirement:

- An organization should implement appropriate security safeguards
- Employees in the organization should be aware that confidentiality of personal information should be maintained.

How?

- Physical safeguards
- Technological safeguards
- Signed Confidentiality Agreement

#8 Openness

Requirement:

- An organization should be open about its personal information policies and practices.
- Clients should be able to access an organization's policies and practices relatively easily.

How?

- Brochures
- Mail out
- Web site
- Toll-free information lines.

#9 Access

Requirement:

- Clients have rights to access their PHI and/or correct the accuracy and completeness of this information
- Never disclose PHI unless you are sure of the identity of the requestor and that person's right to access.

How?

- Use a form to collect information
- Identify who will respond
- Set response timelines
- Document response

#10 Challenging Compliance

Requirement

- Clients should be able to challenge an organization's compliance with the above principles.
- The Privacy Officer is responsible for dealing with inquiries, challenges or complaints.
- An organization should investigate all complaints and if it is necessary, adjust its policies and practices appropriately.

How?

- Use a form
- Identify who will respond
- Set response timelines
- Be aware of other legislation
- Document response

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Is it Snooping if I 'own' the information?

Who owns the personal information?

- The individual/client owns the information.
- *Documenting on a record or adding information to the f*ile does not make you the owner of the information. You are the Health Information Custodian.

When do you have the right to view a client's information?

- When you are the service provider
- While the record is open/active
- In order to plan and provide service, or to document service provided and the information that has been collected
- Gathering statistical or billing information

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Client Records – Preventing Unauthorized Access

- Workshop today (June 5th) in Ottawa by Office of the Information and Privacy Commissioner of Ontario.

Protecting Patient Privacy: Preventing Patient Harm

  - hosted by The Ottawa Hospital as part their Privacy Week activities
  - Content related to:

- Is it worth it? IPC campaign

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Let's discuss….

Group 1

Accountability/Openness

Privacy officer – who is it at your organization, what do they do, what training has been accessed, was resources do you use

Group 2

Consent

– forms, when, how to document, who is in your circle of care, how do you communicate to clients

Group 3

Accuracy – standardized: abbreviations, forms, date format,

Group 4

Safeguards – physical security, use of passwords, paper vs electronic records, transporting between sites

Technological – faxing, scanning, emailing, storing

Group 5

Access – forms, who does file search, review of file, provide copy or original

Group 6

Privacy breach – who does what? Who to report to? Risk management, resources

Review your own practice setting

- Use self assessment tool to identify characteristics of your organization that could be described as
  - Barriers
    - Any real or perceived concept that interferes with a change intervention (Ferlie & Shortell, 2001).
  - Facilitators
    - Factors that would promote or help implement shared decision-making in clinical practice (Legar, 2009).

Create an action plan to implement when you return

Depending on your position and role, you many include:

- High level activities – leading towards organizational changes
- Low level activities – leading towards personal changes

Acknowledgements

- Government of Ontario, Ministry of Health and Long Term Care, Personal Health Information Protection Act, 2004, e-laws, Queens Printer

- Ontario Hospital Association, Ontario Hospital eHealth Council, Ontario Medical Association, Office of the Information and Privacy Commissioner/Ontario and Queen's Printer for Ontario. "Hospital Privacy Toolkit Guide to the Ontario Personal Health Information Protection Act." *Ontario Hospital Association.* September 2004. http://www.oha.com/KnowledgeCentre/Library/Toolkits/PublishingImages/Hospital%20Privacy%20Toolkit.pdf (accessed 05 27, 2015).

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